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BEFORE
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: A-00102306, F001, Am-K Application of Klapac Trucking Company For amendment so as to permit the transportation of (1) iron and steel and iron and steel articles and materials used in the manufacture of iron and steel and iron and steel articles (excluding commodities in bulk) for First Miss Steel, Inc, between points in Pennsylvania; and, (2) paper and paper products, plastic and plastic products and materials, equipment and supplies used in the manufacture and distribution of such commodities, for IVEX Corporation, from its facilities located in the township of Pine, Mercer County, to points in Pennsylvania. Initial hearing.

Pittsburgh, Pennsylvania

July 6, 1993

DOCUMENT FOLDER

Pages 1 to 75, inclusive

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AUG 3 1993

HOLBERT ASSOCIATES
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2611 Doehne Road
Harrisburg, Pennsylvania 17110

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Stenographic report of hearing held in Hearing Room 1, State Office Building, Pittsburgh, Pennsylvania,

Tuesday,
July 6, 1993
10:05 AM

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BEFORE

JOHN CORBETT, ADMINISTRATIVE LAW JUDGE

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APPEARANCES:

JOHN A. PILLAR, ESQUIRE
Suite 700
312 Boulevard of the Allies
Pittsburgh, PA 15222
Appearing on behalf of Klapac Trucking

REX W. McQUAIDE, ESQUIRE
1405 Eisenhower Boulevard
Johnstown, PA 15904
Appearing on behalf of W. C. McQuaide, Inc,
Protestant

INDEX OF WITNESSES

APPLICANT	DIRECT	CROSS	REDIRECT	RECROSS
J. Bernard Klapac	6	34	51	
Mary Jane Lyons	52	68	71	

INDEX TO EXHIBITS

APPLICANT:	IDENTIFIED:	ADMITTED:
Exhibit 1 ✓	10	34
Exhibit 2 ✓	10	34
Exhibit 3 ✓✓	10	34

1 JUDGE CORBETT: We will open the record at this time.
2 This is the time and place scheduled for a hearing on
3 the application of Klapec Trucking Company.

4 This application is docketed with the Pennsylvania
5 Public Utility Commission at Number A-00102306, Folder 1,
6 Amendment K.

7 I am Administrative Law Judge John Corbett, and I have
8 been assigned to hear this case and to render an initial
9 decision.

10 We are in the hearing room this morning with John A.
11 Pillar, representing the applicant, Klapec Trucking,
12 Incorporated, and Rex W. McQuaide, representing W. C.
13 McQuaide, Incorporated.

14 To bring the record up to date, as I understand it, a
15 restrictive amendment was filed by the applicant on or about
16 June 30, 1993.

17 That restrictive amendment satisfied, or has
18 apparently satisfied the interests of Daily Express,
19 Incorporated, who is represented -- who was a protestant to
20 this application, and is represented by William Chesnutt.

21 It is my understanding that the restrictive amendment
22 satisfied the interests of Daily Express, Incorporated, and
23 they will be shortly withdrawing their application, although
24 -- I'm sorry, their protest, although as of this date, I
25 have not received any correspondence from the protestant's

1 attorney, Mr. Chesnutt, to indicate that that is to be the
2 case.

3 Also, at 9:00 o'clock this morning, I received a
4 telephone call from Sally Davoren, who represents a second
5 protestant, Dunlo Transfer Company.

6 Ms. Davoren indicated that over the weekend, Dunlo
7 Transfer has decided to withdraw its protest to this
8 application, and Miss Davoren will shortly file
9 correspondence with the Commission, and copies to all
10 parties, to indicate that that is the case.

11 As I understand it, the sole remaining protestant in
12 this application proceeding is W. C. McQuaide, and I think
13 that brings us up to date.

14 Is there anything further, or any other preliminary
15 matters that we need to address this morning?

16 MR. PILLAR: Your Honor, with respect to the amendment
17 that you mentioned, we did -- you are correct.

18 We did file a restrictive amendment on behalf of the
19 applicant, and I did receive a letter from Mr. Chesnutt,
20 dated June 28, addressed to me, which in effect states that
21 based on the amendment, that he would execute the
22 stipulation and withdraw the protest of Daily Express.

23 I have yet to receive his letter as well, but I
24 understand he is submitting a letter, and his absence here
25 today is an indication that he is satisfied with the

1 amendment.

2 JUDGE CORBETT: All right. Very good.

3 MR. PILLAR: Miss Davoren did call me over the weekend
4 to tell me that she would not be here today, so I was aware
5 of the fact that she was not coming, and with respect to the
6 case today, as I indicated in my correspondence with you and
7 counsel, that I expected to have my case presented in full
8 today.

9 Mr. Simmons, the witness for First Miss, is in Orlando
10 this week and is unable to be here, and he indicated that he
11 wanted to be the witness for First Miss, so I am going to
12 have to ask for one day to put on his testimony, but I do
13 have my other witnesses here today, and I can get as much
14 done as possible, and my thinking here, Your Honor, is that
15 if I can finish with Mr. Klapac and the witness from IVEX,
16 that I would ask for, depending on what Rex thinks, either
17 one or two consecutive days, one day to put on our case, and
18 the next day to put on McQuaide's case, so we won't have any
19 further delay.

20 We want one set of hearings.

21 JUDGE CORBETT: Okay. Any thoughts along that line,
22 Mr. McQuaide?

23 MR. McQUAIDE: I have no objection to that, Judge,
24 other than if something came up within the context of the
25 supporting shipper witness for First Miss Steel that we

1 would need additional time to prepare for, I would advise
2 the Court following the conclusion of that hearing, and the
3 reasons for the extension of time, but I don't anticipate
4 that would be the case, but --

5 JUDGE CORBETT: All right.

6 MR. McQUAIDE: -- I would like to reserve that
7 opportunity.

8 JUDGE CORBETT: All right. We can discuss more of the
9 scheduling of this matter at the end of today's proceedings,
10 and we will see where we go from here today, okay?

11 MR. PILLAR: I am ready to call Mr. Klapac as my first
12 witness.

13 JUDGE CORBETT: All right. Will you come forward,
14 sir, and we will have you testify from this position.

15 J. BERNARD KLAPEC, having been first duly sworn, was
16 examined and testified as follows:

17 DIRECT EXAMINATION

18 JUDGE CORBETT: Please have a seat, sir, and would you
19 begin by giving us your full name?

20 THE WITNESS: J. Bernard Klapac.

21 JUDGE CORBETT: All right. Mr. Pillar?

22 BY MR. PILLAR:

23 Q Mr. Klapac, what is your position with the
24 applicant?

25 A I am the president of Klapac Trucking Company.

1 Q And is Klapec Trucking Company a corporation?

2 A Yes, sir.

3 Q And are you a stockholder of the company?

4 A Yes, sir.

5 Q Are there any other stockholders besides yourself?

6 A My children.

7 Q How long have you owned Klapec Trucking Company?

8 A Well, I started Klapec in 1949.

9 Of course we incorporated in 1979.

10 Q And did you start the company back in 1949?

11 A Yes, sir. It was a one-truck operation.

12 Q And where is your business located?

13 A In Oil City, Pennsylvania. We are located on Route
14 8, south of Oil City, in the village of Reno.

15 Q Is that in Venango County?

16 A That is in Venango County.

17 Q How long have you been located there?

18 A About seven years.

19 Q What type of a facility do you have there?

20 A We have an office structure, a garage, and a
21 parking area that sits on about twenty plus acres of land,
22 and the office is approximately ten thousand square feet,
23 and the garage is about 23,000 square feet.

24 Q How many people do you employ there?

25 A We employ sixty-two drivers, eleven office

1 personnel, and fourteen mechanics.

2 Q Are any of your children, who are stockholders,
3 actively involved in the business?

4 A Yes. They are all in the business.

5 Q And what are your duties as president of the
6 company?

7 A Well, I kind of try to oversee it, make sure that
8 we can make payday on Friday.

9 Q Do you have any other facilities, other than the
10 one in Oil City?

11 A We have our old terminal on Route 8. Of course we
12 don't use it for that.

13 It is available for rent or whatever. We store
14 equipment in it, and so forth.

15 Q You park, then, all of your equipment, when it is
16 not in-service, at your facility you described in Oil
17 City --

18 A That's right.

19 Q -- or in Reno, actually?

20 A In Reno, actually.

21 Q You have been in that facility seven years. Is
22 that a new building, Mr. Klapec, that you built?

23 A We built it, yes. In 1985, we started
24 construction.

25 Q Does your company presently hold operating

1 authority from this Commission?

2 A From this Commission?

3 Q From this Commission --

4 A Yes.

5 Q -- the Pennsylvania State Commission.

6 A The state, yes, yes.

7 Q And does it also hold authority from the Interstate
8 Commerce Commission?

9 A Yes, sir.

10 Q What type of trucking does Klapec perform?

11 A I guess we would call us a general commodities
12 carrier.

13 We carry anything except bulk commodities.

14 Actually, we do haul some bulk commodities, but that is in
15 dump trucks, and we have -- we own flatbed trailers, drop
16 deck trailers. We have van trailers.

17 We even have a few tank trailers.

18 Q Do you primarily transfer truck load commodities?

19 A Truck loads, yes, sir.

20 Q Do you handle anything less than truck load
21 shipments?

22 A Oh, yes.

23 MR. PILLAR: Can I have marked for identification a
24 summary of the operating rights of Klapec Trucking Company,
25 Your Honor?

1 JUDGE CORBETT: Yes. We will mark this document as
2 Applicant's Exhibit 1.

3 Thank you.

4 (Whereupon, Applicant's Exhibit 1 was marked
5 for identification.)

6 MR. PILLAR: While we are at it, I may as well mark
7 the other two exhibits as well, Your Honor.

8 The second exhibit would be a multi-page equipment
9 list.

10 JUDGE CORBETT: We will have that document marked as
11 Applicant's Exhibit 2.

12 (Whereupon, Applicant's Exhibit No. 2 was
13 marked for identification.)

14 MR. PILLAR: Then, our third exhibit would be a
15 financial statement of the company, and I regret to say that
16 we don't have that stapled, Your Honor.

17 They consist of eight pages, and I hope maybe we can
18 get them stapled at a break.

19 JUDGE CORBETT: We will take care of it. We will have
20 this document marked as Applicant's Exhibit 3.

21 (Whereupon, Applicant's Exhibit No. 3
22 was marked for identification.)

23 BY MR. PILLAR:

24 Q Mr. Klapac, would you look at what has been marked
25 for identification as Applicant's Exhibit 1, and tell us:

1 Is that a summary of the operating authority of Klapec --

2 A It looks right to me.

3 Q -- issued by the Pennsylvania Public Utility
4 Commission?

5 A That's correct.

6 Q It begins on Page 1, with a lead docket at 102306,
7 and it goes through Folder 1, Amendment J, which is the
8 authority to serve Forest County at the last page.

9 Do you see that?

10 A That is correct.

11 Q And is Forest County the last authority you applied
12 for that has been granted --

13 A Right. That's correct.

14 Q -- other than this application that is pending?

15 A That is correct.

16 Q You indicated that your company has been in
17 business since 1949.

18 Has it held some of this authority since that time?

19 A Actually, I think our first authority we got was in
20 1956.

21 However, prior to that, we hauled gravel, coal, and
22 other things.

23 We may not have been exactly a trucker. We were a
24 trucker, but we were buying and selling, et cetera.

25 Q When you obtained operating authority, then, you

1 have obtained authority by application largely? Is that
2 correct?

3 A That's right mostly. I did buy a small carrier
4 out.

5 Q Now, do you have some authority presently that
6 would duplicate to some extent the operating rights that you
7 are seeking in this case?

8 To serve First Miss Steel, for example, is there some
9 authority now that you have to serve First Miss Steel?

10 A Oh, yes. Presently, some of this would cover First
11 Miss Steel.

12 Q I direct your attention in particular to the fourth
13 page of your authority -- I'm sorry -- the fifth page,
14 beginning with Folder 1, Amendment C.

15 Do you see that?

16 A Yes.

17 Q Now, under that authority, Mr. Klapac, are you
18 authorized to provide service to points -- to and from
19 points in Pennsylvania from a radius of thirty miles of the
20 city of Oil City?

21 A That's correct, and I interpret that to mean
22 anywhere in Pennsylvania, and vice-versa.

23 Q Okay. And under that authority, then, do you pick
24 up shipments of iron and steel at the facilities of First
25 Miss Steel and transport them into the thirty mile radius of

1 Oil City?

2 A That's correct.

3 Q And have you from time to time done that?

4 A Yes.

5 Q I direct your attention also to the next page,
6 Folder 1, Amendment E, which the authority in those two
7 paragraphs grants authority state-wide, from the County of
8 Venango to points in Pennsylvania, and vice-versa, to the
9 City of Titusville and from points in said city, to points
10 in Pennsylvania, et cetera.

11 Under that authority, could you provide service for
12 First Miss Steel?

13 A That's right, to this area.

14 Q And under Folder 1, Amendment H, which is the next
15 to the last page, you have authority from Crawford County to
16 points in Pennsylvania, and vice-versa?

17 A That is correct.

18 Q Would that also authorize service to and from the
19 facilities of First Miss Steel?

20 A Yes, I think it would.

21 Q And the last page is state-wide authority for
22 Forest County? Is that correct?

23 A That's right.

24 Q Would that also similarly authorize service for
25 First Miss Steel?

1 A Yes, sir.

2 Q By this application, however, you are seeking to
3 serve First Miss Steel between all points in Pennsylvania?

4 Is that correct?

5 A That's correct.

6 Q Not just to or from its facilities?

7 A To all points in Pennsylvania?

8 Q Yes. Between any two points in Pennsylvania?

9 A Right.

10 Q And with respect to the other shipper, IVEX, do you
11 presently provide any service for that company?

12 A Only in an interstate capacity.

13 Q And where are their facilities located?

14 A Grove City, Pennsylvania.

15 Q What types of commodities does your company
16 primarily transport, or is that too limiting?

17 A I would guess most of ours is iron, steel articles,
18 and oil, paper goods, some plastics.

19 That probably covers most of it.

20 Q Is your Pennsylvania intra-state operations, in
21 terms of geographic area, pretty much confined now to the
22 northwestern part of the state, where your facilities are
23 located?

24 In other words, most of your authority emanates to or
25 from that area? Is that right?

1 A That is basically true.

2 Q Under your ICC authority, can you provide 48-state
3 service?

4 A Yes, sir, we do, and we even go to Canada.

5 Q Would you look at what has been marked for
6 identification as Applicant's Exhibit 2?

7 A What would that be?

8 Q It is right here (indicating).

9 A Oh, this one?

10 Q What does Applicant's Exhibit 2 show?

11 A It shows an equipment list.

12 Q When it says at the top, Mr. Klapec, "KTC Tractor
13 List," does that refer to Klapec Trucking Company?

14 A I guess that is our offices, short for "Klapec
15 Trucking Company."

16 Q Now, is this equipment list as of May 28, 1993?

17 A That is correct.

18 Q And what is shown on the first two pages?

19 A Well, we have a series of tractors on the first two
20 pages.

21 Q And would you agree with me that there is a total
22 of 63 tractors shown on the first two pages?

23 A That is right.

24 Q And then what is shown on the remainder of the
25 exhibit?

1 A Then we go into trailers on pages three, four,
2 five, six.

3 Q Okay.

4 A Those are trailers, various trailers.

5 Q Under the fourth column under the word "Model,"
6 would that tell us what type of trailer it is, that is,
7 whether it is a flatbed or a van?

8 A That is correct.

9 Q If it says "Flat 45 foot," what does that mean?

10 A A flatbed trailer 45 feet long.

11 Q If it says "van 48 feet," what does that mean?

12 A It means a van trailer 48 feet long.

13 Q What is a "double drop"?

14 A Now, that is a trailer with a low deck between the
15 wheels.

16 In other words, the higher deck over the tractor
17 wheels drops down to, well, in this case, 22 inches, goes on
18 back to the rear trailer wheels, and it picks up again.

19 That particular trailer is about 24 feet on a level
20 deck.

21 Q What do you use that for?

22 A For high machinery, any high load.

23 Q What type of trailer do you propose to use for IVEX
24 Corporation?

25 A They would be van trailers.

1 Q And what length?

2 A 48 and 53 footers.

3 Q And how many of those does your company have?

4 A We own 37 van trailers, four of which are 45
5 footers, and the rest are 48 and 53s.

6 Q What type of trailers do you propose to use for
7 First Miss Steel?

8 A Flatbed trailers.

9 Q Now, your company has made a restrictive amendment
10 in this case which restricts the applicant against providing
11 size or weight service except with respect to hot ingots.

12 Is it your understanding that First Miss Steel does
13 ship hot ingots?

14 A That's correct.

15 Q Does your company have any familiarity in
16 transporting hot ingots?

17 A Oh, yes.

18 Q Who do you haul them for?

19 A For Ellectralloy Corporation.

20 Q Where are they located?

21 A Oil City.

22 Q What is the special nature of hauling hot ingots?

23 A Well, the reason for hauling them hot, they
24 probably re-roll them or make billets out of them at the
25 destination, and they have to maintain various temperatures,

1 generally around 1100 degrees.

2 It should arrive before it cools down to 1100 degrees.

3 Q What do you transport a hot ingot in?

4 A In a hot box, and that is nothing but a container
5 where they put the red hot ingots into it, and that holds
6 the heat.

7 Q Who supplies the hot box?

8 A In Ellectralloy's case, Ellectralloy does.

9 Q In First Miss's case, do you know who provides the
10 hot box?

11 A I don't know, but I think they own them.

12 Q What kind of tractors or trailers do you haul these
13 hot boxes on?

14 A Well, you can haul them in the bed trailers or drop
15 decks, bring the gravity down.

16 It is a little easier for the guys that work off them,
17 too.

18 Q It is easier to use the drop decks?

19 A It is easier, yes.

20 Q So that is why you put the extension in you
21 couldn't use size or weight service, but you could use it
22 with respect to hot ingots --

23 A Right.

24 Q -- because you do need to use special equipment to
25 transport hot ingots?

1 A That's right.

2 Q And is it your proposal to provide that type of
3 service --

4 A Yes.

5 Q -- for First Miss Steel?

6 A Yes.

7 Q Do you also propose to transport any other
8 commodities that they may ship or receive in Pennsylvania --

9 A Oh, yes.

10 Q -- other than hot ingots?

11 A Yes.

12 Q Is the equipment that is shown on Applicant's
13 Exhibit 2 owned or leased?

14 A It is all owned.

15 Q What is the condition generally of your equipment?

16 A Excellent.

17 Q And how do you maintain it?

18 A As you notice, some of it may not be brand new, but
19 we keep it up in excellent condition.

20 Q Are all those tractors, for example, shown on
21 Applicant's Exhibit 2 all licensed to serve in Pennsylvania?

22 A Oh, yes.

23 Q And how do you maintain this equipment?

24 A Right on our premises. We have our own garage.

25 Q How many mechanics do you employ?

1 A We have 14 mechanics.

2 Q How large of a garage for maintenance do you have?

3 A It takes about 23,000 square feet.

4 Q And do you perform all types of maintenance, both
5 major and minor?

6 A We do everything but framework, frame and front
7 ends, and we farm those out.

8 Q Has your company acquired any additional equipment,
9 other than what is shown on Applicant's Exhibit 2?

10 A Well, this last Friday, I bought a new trailer, a
11 53 footer.

12 It is not on here.

13 Q Have you ordered any additional power equipment?

14 A Yes, sir. We have five new Freightliner tractors
15 coming the 1st of August, and --

16 Q Are these '93s, or those would be '93s, I take it?

17 A Those would probably be '94s, because they change
18 model years pretty fast, or '93s.

19 I'm not sure.

20 Then we also accepted, and I see where a Freightliner
21 straight truck tri-axle, it is not on this list, which just
22 came, like, last week, and it is going to have a roll-off
23 body on it.

24 Q And what does a "roll-off body" mean?

25 A It is -- it is a truck that can lay a box off, and

1 then the customer loads it, and then we siphon it, suck it
2 back up on the truck, and haul it to the destination.

3 Q So it would be like a van trailer, where the van
4 would roll off the chassis?

5 A It wouldn't be a van. It would generally be an
6 open top container, generally.

7 Q Would you look at the last page of your Exhibit 2
8 for a moment, the very last page?

9 It says "KTC Truck List."

10 What are those vehicles shown there?

11 A Okay. Those are, like -- they are dump trucks, and
12 they are also the roll-off container type trucks, and I
13 guess that basically covers it.

14 Q Okay. So there is --

15 A One of these are the small flatbed truck.

16 Q It is eight Macks and one Brockway right now?

17 A Right.

18 Q And there is one additional one you just acquired?
19 Is that right?

20 A Right, uh-huh.

21 Q Does your company have a safety program?

22 A Yes, sir.

23 Q Would you describe for the Commission what your
24 safety program consists of?

25 A Well, basically, we -- well, first, we -- I am

1 trying to watch things very closely, but we have a program
2 where we have meetings at least once every quarter for the
3 drivers.

4 We have awards for them for safe driving.

5 We also give them awards for no injuries, as a
6 workmen's comp case type thing.

7 There is a number we reach. If they reach a number of
8 certain violations, they are taken off the road, or else
9 reprimanded and given a week off, or whatever the situation
10 calls for.

11 We have a board, a group of drivers, mechanics, and
12 someone from the Safety Department sits on the board, and if
13 there is a driver that needs reprimanded or appears to need
14 reprimanded, they have a meeting, and they discuss the
15 situation and come to an understanding of whether -- how
16 serious the situation is.

17 Q This is sort of an in-house corporate thing that
18 you have set up, where the employees judge themselves?

19 A It is pretty much so, yes.

20 Q And has that proved effective?

21 A I think so.

22 Q Does your company have an ICC or DOT safety rating?

23 A Yes, sir.

24 Q And what is that rating?

25 A Satisfactory.

1 Q Is that the highest rating you can achieve?

2 A That is the highest you can get, yes.

3 Q How often is your equipment inspected?

4 A Well, a state inspection, I think, is every six
5 months.

6 It is every six months for the trucks.

7 Q Do you have a routine driver inspection?

8 A Oh, yes, yes. They are supposed to inspect them
9 every -- before leaving for a trip.

10 Of course we recommend that they turn in -- they turn
11 in anything that may be wrong with the truck before they go
12 home, also, so it is fixed for them before they come back to
13 work.

14 Q Does the driver usually get assigned to the same
15 tractor, for the most part?

16 A Most of our drivers have assigned tractors, yes.

17 Q Now, does your company have insurance in amounts in
18 excess of that required by the Commission?

19 A Yes, sir.

20 Q What are your current liability limits?

21 A It is one million, and a five million umbrella.

22 Q Mr. Klapac, briefly, would you describe the kind of
23 service you provide in Pennsylvania presently?

24 A I would say excellent, but I don't know if that is
25 the question you are looking for.

1 Q Well, let me try to be more specific. Presently,
2 are there companies in your area that you serve on a
3 state-wide basis?

4 A Oh, yes, yes. We haul for just about every company
5 in our area.

6 Q And are there some companies that you don't serve
7 on a state-wide basis, but serve locally?

8 A You know, I think most of the companies we work
9 for, we are serving on a state-wide basis, or else we have
10 interstate with them.

11 Q Okay. Now, when your trucks are making deliveries
12 throughout Pennsylvania, how do you keep in communication
13 with your drivers?

14 A Well, we have them call in. They always call in
15 after they unload.

16 Q So that they can then be reassigned? Is that the
17 idea?

18 A Yes, to another -- another job, yes.

19 Q In terms of your central dispatch, does all of that
20 take place at Reno?

21 A Everything takes place in Reno, yes.

22 Q And how many dispatchers do you have there?

23 A There are three.

24 Q And how many hours a day is dispatch open?

25 A Well, they are open from 8:00 until about 7:00, and

1 I do the nightly duties.

2 If anything comes up, there is a problem, we answer it
3 after hours, which it is fairly quiet.

4 It is pretty well organized.

5 Q How many days a week are you open for business?

6 A Well, our garage runs six days a week. Of course
7 our trucks are on the road seven days a week, not so much on
8 the intra-state part, as on the interstate part. They are
9 out seven days a week.

10 Q As a carrier, common carrier of general
11 commodities, are you required to provide some service for
12 shippers that are different? Are some shippers different
13 than for others?

14 A Oh, yes, yes.

15 Q For example, do you provide any spotting of
16 trailers?

17 A Oh, yes. Absolutely.

18 Q What does "spotting of a trailer" mean?

19 A It means you drop a trailer at a shipper's
20 location, and they preload them for you, or it also could
21 mean dropping the trailer at the consignee's location, and
22 they unload it, and generally, in those cases, we have
23 another one there that we pick up and take back with us.

24 Q Otherwise, you have got to go back and get the
25 trailer eventually?

1 A Yes, to get it out, but generally, you drop a load,
2 take your empty one, and it goes on and on for however long.

3 Q Do you propose, or hold yourself out to hold that
4 type of service for shippers in Pennsylvania?

5 A If it is necessary, yes, we do.

6 Q Do you hold yourself out to provide any scheduling?

7 MR. McQUAIDE: Objection. Leading the witness.

8 JUDGE CORBETT: Well, I mean --

9 MR. McQUAIDE: If he is going to go through the whole
10 litany of the special services that they may or may not
11 offer, I think it would be more appropriate for him to ask
12 him what services he does offer.

13 MR. PILLAR: I will rephrase the question.

14 JUDGE CORBETT: All right.

15 BY MR. PILLAR:

16 Q Are there any other special services that you
17 provide, similar to spotting, that you can think of?

18 A Well, of course our roll-off boxes, that is -- that
19 works that way.

20 You dump a box off, pick up a load. We give the
21 customer whatever they want, where possible.

22 Like in the case of hauling steel drums, we can't use
23 overhead doors in those cases.

24 They have to be swing-open doors, because they put up
25 a balloon-type entity to keep the drums from rattling.

1 Yes. You know, whatever -- whatever is necessary, we
2 will try to do. He is our customer.

3 Q How far is your facility from the facilities of
4 IVEX in Grove City?

5 A About thirty miles.

6 Q And so how would you propose to serve IVEX, if they
7 called you for service?

8 A We would probably light load, unless -- if we can
9 drop a trailer, and they pre-load it, which I believe, with
10 the business increase, we would do that.

11 Q How would you propose to serve from the facilities
12 of First Miss Steel at Hollsopple?

13 A Well, we would either send a truck down to do it,
14 or else we would have somebody pick up, as delivering them
15 wherever, and send them in and pick up a load and handle it
16 that way.

17 Q By that, do you mean, if somebody is loading in the
18 area, you would dispatch?

19 A Absolutely. It could be in Hollsopple, Pittsburgh,
20 or wherever.

21 You send them from Oil City, or pick it up on a
22 return, or what have you.

23 Q If you were requested to provide service for First
24 Miss from some point other than Hollsopple to some other
25 point in Pennsylvania, say, from Pittsburgh to Greensburg,

1 how would you provide that service?

2 A We would try to arrange it with a truck that was
3 down in the area.

4 Obviously, it is a little further away for us, or else
5 if necessary, we could send a truck down to do the job.

6 Q Okay. Did both First Miss and IVEX request you to
7 file this application?

8 A Yes.

9 Q Do you expect that approval of this application
10 will result in your having additional empty vehicle miles
11 that you don't have now?

12 A It should probably mean less empty miles.

13 Q Why is that?

14 A Because we will be able to coordinate our equipment
15 better.

16 Q And are your dispatchers able to do that? Is that
17 their function, is to try to coordinate them?

18 A Yes. The function is to keep them loaded as much
19 as possible.

20 Q When your drivers are finished for the day,
21 wherever they may be, do they normally return to Reno
22 overnight?

23 A That's right, unless they have a pickup in the
24 morning.

25 Then they will stay wherever they are and pick up in

1 the morning.

2 Q So they may stay overnight away from the
3 terminal --

4 A Yes.

5 Q -- get their rest, and then make a pickup the next
6 day?

7 A That's right.

8 Q How far do your trucks generally go? At the
9 present time, under ICC authority, what is the furthest you
10 go?

11 A Oh, we go to California, Washington, the State of
12 Washington, Texas --

13 Q So you do --

14 A -- down to Florida.

15 Q You do go coast to coast?

16 A Yes.

17 Q Would you look at what has been marked for
18 identification as Applicant's Exhibit 3, your financial
19 statement?

20 Do you have that in front of you?

21 A Yes, sir.

22 MR. PILLAR: And one of the financial statements that
23 I had, I put some writing on, and I don't know which one it
24 is.

25 I just had little notes. I don't know if it's the one

1 I gave to the reporter, if I may take a look?

2 JUDGE CORBETT: Sure.

3 MR. PILLAR: Oh, I have got it right here. It's in my
4 hand. Luck of the draw.

5 BY MR. PILLAR:

6 Q I wanted to ask you first, Mr. Klapac: Was this
7 financial statement prepared by your accountants?

8 A Yes, by May & Company.

9 Q And do they do your accounting from year to year?

10 A That's correct.

11 Q And looking at your balance sheet -- and I am not
12 sure if everything is in the right order -- the first page
13 should be the cover page, and then the pages are numbered.

14 At Page 2 is the first page of your balance sheet.
15 Okay. Do you have that?

16 A Yes.

17 Q Now, I notice in your balance sheet, Mr. Klapac,
18 you have a comparative balance sheet.

19 You show 1992, compared to 1991 year end.

20 I notice that in 1992, your cash position was a
21 deficit. Would you explain why it was a deficit?

22 A Well, it is like -- unfortunately, my wife wasn't
23 keeping these books, but they wrote too many checks at the
24 end of the year.

25 They were writing checks on December 31.

1 Q To pay bills?

2 A To pay bills, and we like to pay off as much as we
3 can, even though it doesn't matter, because we are on an
4 approval basis, but in this case, they wrote too many
5 checks.

6 Of course it would be easily to disregard, because
7 those checks probably never reached the payees until January
8 anyway, so I guess if they were on their toes, they could
9 have just fixed that up, but they didn't, so naturally, it
10 shows as a deficit, but that is -- it is from writing too
11 many checks at the end of the year.

12 They miscalculated, for whatever reason.

13 Q Now, on your accounts receivable, at 716,000 as of
14 the end of the year, you show a net of allowance for
15 doubtful accounts, and one of them is 154,641 dollars.

16 Is that an account that you -- that is owed to you,
17 but you do not expect to be able to recover?

18 A The question able yes.

19 Q And is that also true of the 23,265?

20 A That's right. That's correct, uh-huh.

21 Q So if you are able to collect any of that money,
22 then your accounts receivable would actually be greater than
23 716,000?

24 A That's right.

25 Q Your total current assets for the end of the year

1 was 951,421 dollars?

2 Do you see that?

3 A Okay.

4 Q And what were your total current liabilities?

5 A 653,858.

6 Q And at the end of December of 1992?

7 A That's correct.

8 Q And what is your company's retained earnings as of
9 that time?

10 A 740,055.

11 Q And is that an increase from 1991, or is that --

12 A It is quite a large increase.

13 Q Look at what has been -- look at Page 3 of your
14 financial statement, and is that a comparative income
15 statement from 1991 to 1992?

16 A Yes, sir.

17 Q Did your company operate at a profit in both years?

18 A Yes, sir.

19 Q And did your company have an increase in gross
20 revenues in 1992 over 1991?

21 A They had an increase in gross revenues, as well as
22 profits.

23 Q Percentage wise, Mr. Klapec, of the six million
24 dollars gross revenues your company did in 1992, roughly
25 what percentage of that came from intra-state Pennsylvania

1 operations?

2 A I would guess that to be around ten percent.

3 Q About \$600,000, roughly?

4 A I think so.

5 Q Is your company currently paying all of its current
6 expenses?

7 A Oh, yes.

8 Q I know from your testimony you indicated you just
9 bought a substantial amount of additional equipment.

10 Did you finance that through a bank?

11 A We are going to finance the five trucks. However,
12 we paid the others out of cash.

13 Q And you have no difficulty borrowing money to buy
14 equipment?

15 A No, no.

16 Q Is your company financially fit, to the best of
17 your knowledge?

18 A Yes.

19 Q Is the information contained in this financial
20 statement true and correct, to the best of your knowledge?

21 A Yes.

22 Q Is your company ready, willing and able to serve
23 the two shippers that you are seeking to serve by this
24 application?

25 A Yes, sir.

1 Q If the application is granted, will you provide any
2 service they may reasonably request?

3 A Whatever they reasonably request, yes.

4 MR. PILLAR: I offer Exhibits 1, 2 and 3.

5 JUDGE CORBETT: They will be so admitted.

6 (Whereupon, Applicant's Exhibits 1, 2 and 3
7 were admitted in evidence.)

8 MR. PILLAR: That is all I have.

9 JUDGE CORBETT: All right. Mr. McQuaide?

10 CROSS EXAMINATION

11 BY MR. MCQUAIDE:

12 Q Good morning, sir. If you would please refer to
13 Applicant's Exhibit No. 3, your financial statement, I
14 believe you may have that in front of you.

15 A Okay.

16 Q You have referenced as long term debt 221,000 and
17 some odd dollars, as well as 437,000 and some odd dollars in
18 your balance sheet.

19 A See, I think that refers probably to, we financed
20 some trucks prior to -- the one refers to trucks financed in
21 nineteen -- whatever year that was, and they will be paid
22 off in this year, and the other refers to the new batch of
23 trucks which we got last year.

24 I think that's what you are referring to.

25 Q Okay. So they are both equipment loans?

1 A Equipment loans, right.

2 Q And would the type of loan be for a term of years,
3 or is it a demand note?

4 A Four years.

5 Q All right.

6 A It is a four-year. We get our loans four years,
7 and then we get one percent over prime from the bank.

8 Q And I would assume that you would pledge that
9 equipment or the titles to the bank to secure them?

10 A Oh, yes, and they ask for a couple more besides
11 that.

12 Q Okay. Prior to obtaining this loan, did you seek
13 approval from the Public Utility Commission in the form of a
14 security certificate?

15 A I don't think so.

16 Q Do you understand that you are required to have a
17 security certificate issued prior to obtaining --

18 MR. PILLAR: I am going to --

19 Q -- a loan?

20 MR. PILLAR: I am going to object. It calls for a
21 legal conclusion from the witness.

22 BY MR. McQUAIDE:

23 Q Well, do you know whether or not you are required
24 to have PUC approval prior to taking out a long-term loan?

25 MR. PILLAR: You mean --

1 A You mean like for equipment?

2 Q Yes.

3 A It is news to me, sir.

4 Q How many years have you been operating?

5 A Oh, I have been in business -- you know, I have
6 been in it 43, 44 years.

7 Q And your first PUC certificate was issued in 1956?
8 Is that correct?

9 A Yes.

10 Q And you have never obtained, prior to the issuance
11 of any term in excess of one year, a security certificate?

12 A I'm sorry to say I didn't.

13 Q With regard to shipments that your company may have
14 performed for First Mississippi steel, Incorporated, whose
15 facilities, I believe, are located in Hollsopple, PA --

16 A Yes.

17 Q -- do you currently haul for First Miss?

18 A Yes.

19 Q And do you make pickups at their facilities and
20 delivery to points in Pennsylvania?

21 A Right.

22 Q And what would some of those points be?

23 A Oh, Titusville, Corry. Then of course we do quite
24 a bit of interstate stuff with them.

25 Q What would some other points within the State of

1 Pennsylvania be?

2 A I -- I only know of Oil City -- not Oil City,
3 because we don't go to Ellectralloy for them, but I only
4 know Corry and Titusville.

5 Q Is it your testimony, then, that the only shipments
6 that you have made for First Miss Steel would be pursuant to
7 your operating authorities at Folder 1, Amendments C, E, H
8 and J?

9 A That would be right, yes.

10 Q Do you currently haul steel ingots for First Miss
11 Steel?

12 A Ingots?

13 Q Yes, hot steel ingots.

14 A Not hot, no.

15 Q But regular ingots?

16 A Yes.

17 Q Okay. And where would those locations, destination
18 points be?

19 A It would be Corry, Titusville, Texas, but that is
20 -- you are not interested in that.

21 Q Intrastate.

22 A Intrastate, Corry and Titusville are about the only
23 ones I know.

24 Q Have you done any work for firms known as Stony
25 Creek Steel or Steel Castings and Engineers?

1 A Not that I know of.

2 Q Okay. They are interrelated companies that are
3 based out of Hollsopple --

4 A No.

5 Q -- within the same complex.

6 A I never heard of the names.

7 MR. PILLAR: These are not controlled by First Miss?

8 I mean, they are not subsidiaries of First Miss?

9 MR. McQUAIDE: Well, one is a trade name, and the
10 other is a separate corporation, with similar officerships.

11 MR. PILLAR: Stony Creek Steel, and what was the other
12 one?

13 MR. McQUAIDE: Steel Castings and Engineering.

14 MR. PILLAR: Thank you.

15 BY MR. McQUAIDE:

16 Q Has your company done any work through a broker or
17 forwarding company that resulted in traffic moving to or
18 from First Miss's facilities in Hollsopple?

19 A I don't know who or what you are referring to.

20 Q A third party company that would be making
21 transportation arrangements for First Miss Steel.

22 A I think that -- I think that there is a company
23 called Raytrans that does the paying.

24 Is that what you are referring to?

25 Q Yes. Well, tell me what you know about Raytrans,

1 and how that relates to your company.

2 A Well, they came onto the scene not too long ago,
3 and they are doing the traffic management for First Miss.

4 I think they approve the bills. I think they pay
5 them, or something like that.

6 I am really not too aware of it, because I am not into
7 dispatching or the collections, but I have heard of
8 Raytrans.

9 Q Okay. But is it your testimony that at least as
10 far as your company is concerned, any work that you have
11 done was directly with First Miss Steel?

12 A That is my understanding, yes.

13 Q Have you leased any equipment and/or drivers to
14 First Mississippi Steel -- First Miss Steel?

15 A No. You mean like on a basis where you lease a
16 truck and a driver for a long period of time?

17 Q Either a long period, or a short period of time.

18 A The only thing we do for First Miss is haul a load
19 for them when they call us, meaning, in other words, when
20 they call us for a load, we send it down, and that is normal
21 movement of freight, I interpret.

22 It is not a lease, no. It is no lease.

23 Q Who at First Miss asked you to file this
24 application?

25 A Well, I guess a guy by the name of Jack Simmons.

1 Q And what is Mr. Simmons' capacity with that
2 company?

3 A Well, he was involved in the meeting, and I really
4 don't know what his title is.

5 Q If this application were to be granted, how would
6 you handle a shipment for First Miss, say, a twenty-pound
7 box of steel widgets that would need picked up in Erie this
8 morning and delivered to their Hollsopple facility?

9 How would you handle a shipment like that?

10 A Well, I believe if we were granted the authority,
11 we would probably pick it up with -- under what we call an
12 expedited service.

13 We can. We offer an expedited service, which is, we
14 pick it up in a station wagon, a pickup truck, a small stake
15 truck, or a medium sized truck, maybe fifteen, eighteen
16 thousand pounds, or else a tractor trailer, so I guess in
17 this case, twenty pounds, I would probably jump up there
18 with my car, send somebody up or something.

19 It would be no big problem.

20 Q Well, have you done that in the past?

21 A Not -- not with First Miss, no.

22 Q Well, for other customers?

23 A We have some customers locally that we do that for,
24 have done it for.

25 Q Where you pick things up in your car?

1 A Well, car, pickup truck mostly.

2 Q Would that car be listed on your equipment list?

3 A Well, we have an equipment list here, too, yes.

4 There are cars on the equipment list, yes.

5 Q Where might that be located?

6 A The last page. We have got an '85 Oldsmobile car.

7 We have got a '90 Cadillac car, and of course the rest of

8 them are all pickup trucks or stake body trucks.

9 Q Have you ever picked anything up in the Cadillac?

10 A Nope.

11 Q How about the Olds --

12 A Nope.

13 Q -- or the Chevys?

14 A Nope. In the pickups, yes, sure.

15 Q Do either the cars or the pickups have your PUC
16 number on the side of the door?

17 A Oh, these are registered in the company name.

18 Q Well, but do they have your PUC number on the side
19 of the door?

20 A No.

21 Q And yet you make pickups?

22 A I said that we didn't pick up in the car. I said
23 we could --

24 Q Okay.

25 A -- but I haven't.

1 Q How about the pickups?

2 A Yes. They have the names and the numbers on them.

3 Q So your testimony then is that you have never
4 picked up anything in the car?

5 A That's right, but we could. We could do it if we
6 had to, or if called for it.

7 Q But yet you don't have the PUC number on the side
8 of the door?

9 A Yes, right, and if you are not aware, we have an
10 expedited service tariff filed here, if that will help you.
11 I think it mentions a car.

12 Q The car has the PUC number on the side of the door?

13 A No. Wait. Just because you have a tariff doesn't
14 mean that you are doing it. The authority applies on
15 shipments which are transported in a passenger car, pickup
16 truck, or vehicle of similar capacity, maximum weight 1000,
17 1000 pounds per shipment.

18 It is not necessary to haul in a car if you have a
19 pickup, I guess.

20 Q Does your company have a drug testing program?

21 A Yes, sir.

22 Q And could you describe how that works?

23 A Everyone we hire we send to the hospital for a
24 physical test, as well as a drug test, and of course the
25 rule I understand is, there is a random.

1 You pick drivers at random, and the computer does
2 that, and so that could mean that a driver may get drug
3 tested two months in a row, and another guy may escape it
4 for a year or two.

5 Q What happens if one of your drivers is discovered
6 with some type of drug in his blood system?

7 A Well, he wouldn't go on the road. We would
8 naturally pull him off the road.

9 Q And what would you do then?

10 A Well, what would we do then?

11 Q Under your drug testing program.

12 A Well, we would naturally, if he was -- if it was a
13 true case of drug usage, well, then, we would probably get
14 rid of him.

15 We certainly wouldn't let him on the road.

16 Q Well, do you have a program in place?

17 A Yes.

18 Q What does the program say with regard to drivers
19 that have been discovered by the hospital as having an
20 improper drug in their system?

21 MR. PILLAR: I am going to object to the form of the
22 question.

23 I don't think that Mr. Klapac has the actual written
24 program here.

25 I'm not sure that he can quote verbatim from the

1 program, and I think that is what Mr. McQuaide is asking him
2 to do.

3 I think, at best, Mr. Klapec can describe the program,
4 but I don't think he can explain -- I don't think he can say
5 what the program says, unless he has it here, and I don't
6 know whether Mr. Klapec has it here.

7 THE WITNESS: I don't have it.

8 MR. MCQUAIDE: Your Honor, if I may respond, I think
9 this is an important item in today's arena of regulation, to
10 know what response this carrier would take if he was
11 confronted today at the office with a situation where one of
12 his drivers was discovered through one of these random tests
13 as having drugs in his system.

14 THE WITNESS: I thought I answered that.

15 MR. PILLAR: Okay.

16 THE WITNESS: But I will tell you that. Can go on?

17 JUDGE CORBETT: Just a minute, Mr. Klapec. Let's let
18 the attorneys hash that out, and I will make a decision.

19 MR. PILLAR: I don't have a problem with the question.

20 I think, in fairness, if Mr. McQuaide wanted to know
21 that, he could get that information through discovery, and
22 he didn't ask to us bring the drug testing program here.

23 If Mr. Klapec had it here, he could read verbatim from
24 the program.

25 I think, at best, Mr. Klapec is trying to explain what

1 his understanding of the policy is.

2 JUDGE CORBETT: Okay. I think the form of the
3 question asked for a verbatim recitation of what the
4 company's program was, would be, so if you want to test his
5 knowledge of what his understanding of the program is, we
6 will allow you to do that.

7 Otherwise, I will sustain the objection.

8 MR. McQUAIDE: I will rephrase the question.

9 BY MR. McQUAIDE:

10 Q What would you do if your supervisor came to you
11 and explained that the hospital said there's drugs in your
12 driver?

13 A Okay. Let me tell you what happened. Maybe that
14 will explain it to you.

15 Approximately two -- two or three months ago, we had a
16 driver put up for a check, where -- whether it was a random
17 check, or whether it was his turn to go with his physical,
18 and the hospital said, "Hey, you've got a guy that's on
19 drugs," so we immediately took him off the road.

20 He didn't go anywhere, and of course he said, "Well, I
21 am on medicine, but I am not on drugs."

22 And I said, "Until we can get an okay from the
23 hospital, you cannot hit the road."

24 Well, after two or three weeks and some more tests, it
25 was determined that he was okay, and so he went back on the

1 road, and we -- you know, I couldn't say.

2 The only thing we could do is take him off the road
3 and let the hospital determine if that was a wrong reading
4 of the guy, or what, or whether his medication was causing
5 the reading, but then he was cleared, and he is back on the
6 road.

7 Q And what would your position have been, had it been
8 discovered it was marijuana that was in his system?

9 A Well, if it was definite, if it was a drug problem,
10 he wouldn't drive for us.

11 Q You would terminate his employment?

12 A I would have to. I don't know what else to do with
13 him.

14 I don't -- I know I wouldn't want a druggie following
15 me down the road in a car, when I am in my car.

16 Q If somebody came to you today at the office, and
17 admitted to you that they have a drug problem prior to any
18 testing, what would you do?

19 MR. PILLAR: I am going to object, Your Honor, to the
20 relevance.

21 I think Mr. Klapac has explained the company's policy,
22 but I don't see the point of continued hypothetical examples
23 here.

24 JUDGE CORBETT: Mr. McQuaide?

25 MR. McQUAIDE: Your Honor, regulated carriers in

1 today's environment are drilled left and right with these
2 types of programs, and I think it is important for this
3 Commission to understand what this gentleman's understanding
4 of these regulations are.

5 I think it is highly pertinent to the safety aspects
6 of this application, and inasmuch as the government devotes
7 a lot of time and attention, and the impact on the costs
8 associated with that on regulated carriers, I think it is
9 important enough in the context of these proceedings what
10 this gentleman's understanding is.

11 JUDGE CORBETT: Well, in one sense, I tend to agree
12 with Mr. Pillar, that I don't think we want to go down this
13 road too far, and --

14 MR. McQUAIDE: It is the last question I had on this
15 series.

16 JUDGE CORBETT: All right. I will allow you to ask
17 that question.

18 The objection is overruled.

19 A Okay. The question again, please?

20 Q If a driver came to you today and admitted, prior
21 to a test being administered, that he had a drug problem,
22 how would you respond to that?

23 MR. PILLAR: You are talking about an existing driver
24 that is employed by the company?

25 MR. McQUAIDE: Yes.

1 A Well, of course we have people -- one of my
2 daughter's handles all of that.

3 She is better versed on that than I am.

4 However, being a compassionate person, we would
5 probably take him off the road and see if he could get
6 himself straightened up, and if he ever got to the point
7 where he was straight, and somebody would testify for him,
8 or whether it be a doctor or whoever, probably we would take
9 him back.

10 I don't know.

11 It depends on whether he would get himself
12 straightened out.

13 Q Do your --

14 A So long as he is a druggie, I will bet you, I don't
15 care, law or no law: He is not going to drive a truck.

16 Q Okay. Fair enough. Do your drivers maintain daily
17 logs?

18 A Yes, sir.

19 Q And do you have a policy on the maximum amount of
20 hours per day that they are permitted to drive?

21 A Only whatever is the proper hours, and they run --
22 I think our guys run on a 70 hour week, I think, whatever
23 that is, 70 hours and eight days, or something like that.

24 I'm not sure about that, but we have a person that
25 does nothing but logs, and they have a computer, and if

1 anything is wrong, it kicks it out, and they write him a
2 letter and take care of it that way.

3 Q What would the maximum amount of hours per day be
4 that they would be permitted to drive without an eight-hour
5 break?

6 A Ten hours.

7 Q You mentioned during your direct testimony that you
8 currently perform work for First Miss.

9 Are all of these hauls for First Miss something that
10 either originates or ends up at the Hollsopple facility, the
11 ones that you currently handle?

12 A Yes. They probably either originate or end up at
13 Hollsopple, yes.

14 Q Have you discussed rates with Mr. Simmons at First
15 Miss?

16 A No, I haven't.

17 Q Do you have any personal knowledge as to any hauls
18 for First Miss that may have exceeded your operating -- your
19 existing operating authority?

20 A I am not aware of it.

21 Q And who within your organization would be
22 responsible for determining whether or not hauls would
23 exceed your existing operating authority?

24 A Well, our dispatchers would be aware of that.

25 Q And who are your dispatchers?

1 A Oh, we have got one guy by the name of Robert
2 Stahlman, and another one is Nancy Reggle, and another one
3 is Ralph Umbegraff, U-m-b-e-g-r-a-f-f, Umbegraff.

4 Q Have you discussed where you might possibly haul
5 hot ingots to and from, with respect to First Miss, if this
6 application were to be granted?

7 A Again, they have hot ingot moves, and I think some
8 will be going to Corry, if they are not already going to
9 Corry, and the Titusville plant, their plant in Titusville,
10 and I don't know where all they haul.

11 The ingots that -- the ingots we haul to Ellectralloy,
12 they go anywhere.

13 One week they are hauling here. The next week they
14 are hauling somewhere else.

15 It depends on who the forger is, and who or what.

16 Q Is there a certain range that you can't exceed in
17 hauling hot ingots?

18 A Well, of course I would say it would have to be
19 kept within a certain temperature, a certain range, because
20 of the cooling process, but we have taken them to Detroit,
21 to Michigan from Oil City, which is 268 miles, so they can
22 almost take them across Pennsylvania.

23 As a matter of fact, from Hollsopple, I think it would
24 take them to the eastern part of Pennsylvania.

25 MR. McQUAIDE: Thank you. I have no further

1 questions.

2 JUDGE CORBETT: Mr. Pillar?

3 REDIRECT EXAMINATION

4 BY MR. PILLAR:

5 Q Just one question, Mr. Klapec.

6 To the best of your knowledge, is your company in
7 compliance with the PUC and ICC safety regulations?

8 A As far as I know, I think we are. We have gone
9 through the checks, and we have come out well.

10 As a matter of fact, I might add, we were doing the
11 drug checks long before it was mandatory.

12 We were doing it at least a couple of years before it
13 was mandatory.

14 We did it on our own, and it cost us a lot of money,
15 but we didn't want any druggies on the highway.

16 MR. PILLAR: Those are all the questions I have.

17 JUDGE CORBETT: Anything further, Mr. McQuaide?

18 MR. McQUAIDE: No, sir.

19 JUDGE CORBETT: Mr. Klapec, you are excused.

20 (Discussion off the record.)

21 MARY JANE LYONS, called as a witness, having been
22 first duly sworn, was examined and testified as follows:

23 JUDGE CORBETT: Would you begin, please, by giving us
24 your full name? And spell your last name for the record,
25 please.

1 THE WITNESS: Mary Jane Lyons, L-y-o-n-s.

2 JUDGE CORBETT: All right. Mr. Pillar?

3 DIRECT EXAMINATION

4 BY MR. PILLAR:

5 Q Mary Jane -- may I call you "Mary Jane"?

6 A Yes, uh-huh.

7 Q What is your position with -- what company are you
8 employed by, first of all?

9 A IVEX Corporation.

10 Q What is your position with the company?

11 A Shipping coordinator.

12 Q What is the business address of IVEX?

13 A 600 Barkeyville Road, Grove City, Pennsylvania.

14 Q And how long have you been employed there?

15 A Well, it will be -- it is about three years and ten
16 months now, I guess I have been there.

17 Q How long have you held your present position?

18 A About a year and -- well, it is a couple of years,
19 anyhow, at least.

20 Q And are you authorized by your company to be here
21 and testify in support of this application?

22 A Yes.

23 Q What is the business of IVEX?

24 A We are a manufacturer.

25 Q What do you manufacture?

1 A We manufacture plastic and paper packaging items,
2 whether it be food or material packaging.

3 Q Okay. Would you describe, like, the types of
4 things that you would make?

5 Would we be familiar with them?

6 A Yes. We manufacture the salad trays that you may
7 see at Burger King and McDonald's.

8 That is part of our heavy food line. We manufacture a
9 lot of different food trays.

10 As far as our paper line, you may see -- you will see
11 them in Oreo cookies.

12 It is the paper liner inside. Perfume boxes, you will
13 see a corrugated paper liner inside the box.

14 You will see them when you buy a light bulb, the
15 cardboard box.

16 Well, it is actually corrugated paper, single face
17 corrugated. It is printed.

18 Some of our product is printed, and we have a big line
19 for Nabisco cookie trays. You will see a lot of plastic
20 trays and paper packaging, mailer envelopes, the padded, or
21 just corrugated mailers.

22 Q And is IVEX, is their facility in Barkeyville, is
23 that the only place they manufacture these products?

24 A No. We have a facility in Georgia, Madison,
25 Georgia.

1 We have several facilities in Illinois. We have a
2 West Coast faculty in Visalia, California.

3 We own a lot of paper mills and plastic extrusion.
4 That is basically what we own, but we have our own paper and
5 plastic converting mills, where we will send our scrap raw
6 material after it converted back, recycled back into raw
7 material for our manufacturing.

8 Q Do you have any other facilities in Pennsylvania --

9 A Yes.

10 Q -- other than this one? Where is that?

11 A We have a plastic mill, which is in Hazelton,
12 Pennsylvania, which we send a lot of our scrap plastic to.

13 It would be the scrap left from the molded injection
14 to the sheet. We grind it into flake.

15 We will ship this ground flake back to Hazelton, and
16 they make it into pellets then, and it is run back into
17 sheets.

18 Yes, we have another.

19 Q They run it back into sheets at Hazelton?

20 A Yes.

21 Q And they ship it back to you in Barkeyville?

22 A Yes.

23 Q And the process goes on again?

24 A Right, exactly.

25 Q What are your duties as shipping coordinator?

1 A My job is to fill any of the customers' orders.
2 When an order is placed, it is my job to make sure that that
3 product is delivered at the customer's dock on the date
4 required by them, so therefore, whether it is a UPS
5 shipment, or whether it is a truck load volume shipment, it
6 is my decision who, how or who will haul the freight.

7 Q How many employees are employed, approximately, by
8 IVEX at Barkeyville?

9 A Approximately 250 people.

10 Q And how long have you been at that location?

11 A We have been at that location for just -- just over
12 four years now.

13 Q So you came with the company shortly after it
14 opened?

15 A Exactly. Now, we had originally located, been
16 located in New Castle, Pennsylvania.

17 The company had been there for many, many years.

18 We just expanded and consolidated a lot of our east
19 coast companies into one, but where we are sitting now as a
20 consolidation, it has been four years.

21 Q Why is your company supporting the application of
22 Klapec Trucking?

23 A I have a great majority of my shipments that go to
24 Pennsylvania, and when I choose carriers to haul my freight,
25 I have to be aware of which carriers can haul intrastate,

1 and if they cannot serve me with intrastate authority, then
2 my freight will sit on the dock, and I can't serve my
3 customer, so therefore, the more carriers that I have that
4 can help me move my freight, the happier my job and my
5 customers are, so therefore, I'm always trying to make well
6 aware of what carriers have the authority.

7 Q Do you have a need for intrastate service?

8 A Oh, yes, yes.

9 Q And do you use Klapec now in interstate commerce?

10 A Oh, yes. I use him mainly to Connecticut and
11 Virginia.

12 Those are about the only two movements that it is good
13 for him, and that I can use him on.

14 Q Do you believe that if this application is granted,
15 you could use Klapec on intrastate Pennsylvania shipments?

16 A Very much.

17 Q Tell us, in terms of the shipments that you make to
18 points in Pennsylvania, what type of customers are you
19 shipping to?

20 A We are mainly shipping to, I guess it would be,
21 distributors of our finished goods, and with the exception
22 of our mill that is in Hazelton, Pennsylvania, they will
23 handle our raw materials, you might say.

24 Q Let's talk about that for a minute, just so we can
25 get that out of the way.

1 The shipments that go from Barkeyville to Hazelton,
2 how often are those shipments made?

3 A Oh, I would have to say weekly, anyhow, maybe once
4 or twice a week.

5 Q And what volume? Do they move in a truck load
6 volume?

7 A Truck load volume.

8 Q What type of trailer would be required?

9 A We use 48, 102 vans.

10 Q And these flakes, are they just blown into the van,
11 or are they put in containers of some sort?

12 A They are put into a box.

13 Q Into boxes?

14 A A very big box, yes.

15 Q So you would have shipments moving, then, to
16 Hazelton in truck load quantities, and then similarly, with
17 shipments moving back from Hazelton?

18 A Yes.

19 Q About the same number of shipments?

20 A Well, they may have a load coming back to us, or
21 they may have a load that would be going to our other plants
22 in Illinois.

23 They also supply them with plastic, finished goods,
24 too, so it may not be a return load to us, but it may be a
25 return load to one of our other facilities in Illinois.

1 Q But it could be a return load --

2 A Oh, yes.

3 Q -- to Barkeyville, too?

4 A Oh, yes. It very well could be.

5 Q Now, where are the customers that you have in
6 Pennsylvania located?

7 Give us some representative destinations to which you
8 ship.

9 A We ship into Philadelphia, Reading, Scranton,
10 Wilkes Barre.

11 We will go into York, Pennsylvania, North Huntingdon,
12 Somerset.

13 Q North Huntingdon being near Irwin in Westmoreland
14 County?

15 Is that the North Huntingdon?

16 A Right, in the Pittsburgh area.

17 Q Somerset?

18 A Somerset, Erie. Of course I mentioned Hazelton.
19 We have a plant there.

20 JUDGE CORBETT: What county -- I'm sorry. What county
21 is Hazelton in, please?

22 THE WITNESS: Hazelton would probably be in -- it is
23 probably a little southwest of Scranton, so now I am not
24 quite sure --

25 JUDGE CORBETT: Okay.

1 THE WITNESS: -- where it is.

2 MR. PILLAR: Either Luzerne or Lycoming, but I'm not
3 sure.

4 JUDGE CORBETT: Oh, okay.

5 MR. McQUAIDE: Hazelton, yes. That is up around --

6 THE WITNESS: Southwest of Scranton, there.

7 MR. McQUAIDE: That's right.

8 THE WITNESS: It might be the Scranton area.

9 JUDGE CORBETT: Okay. Thank you.

10 BY MR. PILLAR:

11 Q And now, the points that you gave us, was that all
12 the points you shipped to, or was that just the ones that
13 you can think of?

14 A Oh, those are just a few representatives of the
15 ones we go to.

16 Q Do you actually have the need for service on a
17 state-wide basis throughout Pennsylvania?

18 A Yes. We are heavy on the eastern coast, as well as
19 the western coast of Pennsylvania.

20 Q By "coast," you mean the western part?

21 A Well, that part of state.

22 Q Well, it is sort of a coast. There is a river down
23 there.

24 A Yes, I know. Right.

25 Q Do you have -- could you tell us, in terms of the

1 volume of shipments that you make from Barkeyville to these
2 various Pennsylvania destinations, about how many truck
3 loads you ship weekly, averages?

4 A Oh, weekly, out of my intrastate loads on a weekly
5 basis, I am probably shipping twenty, twenty-five loads a
6 week --

7 Q Okay.

8 A -- intrastate, out of maybe a representation of
9 maybe 35, 40 loads.

10 Now, there are some times where I may have 60 loads,
11 65 loads per week going out there.

12 You would see maybe half, or a little bit more than
13 half goes intrastate.

14 Q Is the business seasonal? I mean, are there times
15 that you ship more than at other times?

16 A Yes, it is somewhat seasonal. Because of the
17 produce trays that we manufacture, it is somewhat seasonal.

18 Q Okay. So there may be some times of the year where
19 the volume is greater, and other times where the volume may
20 be somewhat else less?

21 A Exactly. Now, I do have some shipments that I make
22 that we will maybe have a stop in Pennsylvania, and the
23 final outside of Pennsylvania, which may be a stop in
24 Philadelphia, with a final outside, across the border into
25 maybe Millvale, New Jersey.

1 Q Would you do that with respect to shipments that
2 are going to two different places in Pennsylvania?

3 Does that ever happen?

4 A Oh, yes. Multi-stop loads very much, yes.

5 Q Would you expect Klapec to provide that type of
6 service?

7 A Oh, yes, yes.

8 Q With what frequency would you anticipate using
9 Klapec in Pennsylvania, if this application were granted?

10 A I would probably be able to provide him with
11 probably two loads a day, which could very well -- well,
12 depending on the time of year.

13 Right now, I guess my mind frame is on my work load
14 right now, as far as my loads now.

15 As the business peaks, I may have the need of five of
16 his trucks a day, but I am using more or less right now in
17 my mind, how I can see my business going.

18 At about two loads a day, I can probably use him on,
19 but that could very well -- as my business increases, I
20 would have definite need for more of his equipment.

21 Q Do you have -- what type of trailers do you
22 anticipate requiring from Klapec?

23 A I would need his van trailers.

24 Q And you need the extra volume vans?

25 A The 48. I don't really like to load anything

1 shorter than a 48 foot trailer.

2 I do on occasion load 53 foot trailers.

3 That sometimes is to my advantage, but there are
4 limitations as to where these 53 foot trailers can go, but I
5 think they are legal in Pennsylvania.

6 Q How many loading doors you have to at IVEX?

7 A We have ten on our outbound dock. Our facility
8 has, I believe, nineteen doors, altogether, for different
9 inbound, outbound.

10 Q Is your company -- the volume of shipments, the
11 truck load volume, what would the average weight of a truck
12 load shipment of plastic or paper articles be?

13 A Well, I will give you an idea. We have one of our
14 -- one of our heaviest loads would be our reground flake
15 going to Hazelton, and that weighs at, oh, maybe 20,000,
16 22,000.

17 That is product --

18 Q Okay.

19 A -- and that is about 22,000 pounds. Our plastic,
20 if we have a full load of plastic trays going out to maybe
21 Burger King, that would weigh maybe about 13,000 pounds, and
22 a full load of egg sleeves going down south, that would
23 probably be somewhere around ten, eleven thousand, but our
24 average -- those are our heaviest.

25 Our average is maybe seven, six, seven, eight thousand

1 pounds.

2 Q And that is still full visual, visible capacity of
3 our trailer?

4 A Yes, that is full visible capacity. Although our
5 product is not heavy, it does take up the room.

6 Q Is that the reason why you would like to have the
7 extra large, over size trailers?

8 A Yes.

9 Q You can get more product on them?

10 A Per mile, yes.

11 Q Now, other than the inbound shipments coming back
12 from Hazelton, do you have any other shipments coming back?

13 A Oh, yes.

14 Q What other shipments do you get inbound from points
15 in Pennsylvania?

16 A We get from Philadelphia, Goldman Paper -- I
17 believe they are a manufacturer of raw material -- they will
18 sometimes ship to us on a carrier, if our own fleet cannot
19 bring this product in, so we pay the freight, but we leave
20 it at their discretion to choose the carrier, unless we
21 otherwise indicate a particular carrier, "We want you to use
22 X company to bring our freight in."

23 Q Could you designate Klapec --

24 A Yes.

25 Q -- as the shipper?

1 A Yes.

2 Q Would the shipper in Philadelphia honor that
3 routing?

4 A Yes.

5 Q You route the carrier back from Hazelton, and you
6 decide?

7 A Yes, yes.

8 Q Do you have any other inbound origins from points
9 in Pennsylvania?

10 A Not -- not really.

11 Q Have you ever received back shipments from your
12 customers that are either the wrong order, or then they have
13 some problems?

14 A Yes, we do receive inbound from returned freight
15 from our intrastate Pennsylvania customers.

16 Q And as far as the outbound shipments are concerned,
17 your company pays the freight charges and selects the
18 carrier?

19 A Right.

20 Q Now, in addition to using Klapec on ICC shipments,
21 you have indicated that you have your own trucks that
22 provide service?

23 A Yes.

24 Q How many trucks does IVEX have on its own?

25 A We have nine.

1 Q Nine tractors?

2 A No. We have ten, actually, I think.

3 Q Okay. Ten tractors --

4 A Yes.

5 Q -- and ten trailers?

6 A Oh, we have maybe 17 or 18 trailers, and nine to
7 ten tractors.

8 We have nine drivers, I believe, and ten tractors.

9 Q Okay.

10 A Yes. That is, it is a private fleet, so we -- we
11 can only haul for ourselves.

12 Q And do you use other common carriers intrastate at
13 the present time?

14 A Yes.

15 Q And will approval of this application adversely
16 affect any of your existing carriers?

17 A Not -- not necessarily, no.

18 Q You are going to -- are you going to continue to
19 engage in private trucking?

20 Is that the company's plan --

21 A Right.

22 Q -- long range?

23 A Yes. For now, I believe that is their intentions,
24 is to keep our fleet on.

25 Q You indicated that you have had some difficulty, or

1 have a need, rather, for additional carriers.

2 Why do you feel you have a need for an additional
3 carrier within Pennsylvania?

4 A Too many times I have a shipment going to
5 Philadelphia, and at certain times of the year, or even
6 certain times of the month, at the end of the month, I have
7 shippers trying to get rid of their product, and I will call
8 carriers, and I will ask, "Do you have any trucks in the
9 area?"

10 "Yes. Where is your shipment going?"

11 "Philadelphia."

12 "Oh, I'm sorry. We can't to intrastate."

13 Off the top of my head, I know -- I am familiar with
14 the carriers that have the intrastate authority, and they
15 are mainly the carriers that they have terminals based in
16 Pennsylvania, so I can limit who I am calling.

17 I am not going to call a carrier that has their home
18 base terminal in New Jersey and expect them to hold
19 intrastate Pennsylvania authority for me.

20 I know that would be a waste of time to make the phone
21 call.

22 It's hard. I have had to leave my freight sitting on
23 the dock from time to time, because I have not been able to
24 find the carriers out there which hold this authority.

25 Q Is Philadelphia the only place where you have had

1 difficulty getting service to?

2 A No, no. Philadelphia. I have had Reading, York,
3 Evansville,

4 Q Where is Evansville?

5 A Evansville is south of Scranton, so it is right out
6 near Hazelton, actually.

7 Q And if this application is granted, you feel it
8 would be in your company's interests to have this service
9 available to you?

10 A Oh, yes, uh-huh.

11 Q What is your normal lead time in calling carriers?
12 How far -- I mean, when you call a carrier, how soon do you
13 expect them to have equipment available?

14 A Unfortunately, I can only offer 24 hour lead time.
15 I will call maybe at 2:00 o'clock this afternoon, and ask if
16 I could have a trailer at 8:00, 9:00, 10:00 o'clock the
17 following day.

18 We load around the clock, so it is pretty easy for me
19 to accommodate the carriers.

20 They can come in and unload.

21 Q How long does it take a trailer to get loaded?

22 A An average, I would say maybe about an hour, hour
23 and a half.

24 Q Do the truckers that come in now, do they just
25 usually wait for the truck trailer to be loaded?

1 A Yes.

2 Q Do any of your carriers provide trailers for
3 spotting?

4 A Yes. Oh, yes. We have a lot of spot trailers.

5 Q And how far is your facility from Klapac's. Do you
6 know?

7 A About thirty miles.

8 MR. PILLAR: Those are all the questions I have, Your
9 Honor.

10 JUDGE CORBETT: Mr. McQuaide?

11 CROSS EXAMINATION

12 BY MR. McQUAIDE:

13 Q Good morning, Miss Lyons. My name is Rex McQuaide.
14 I am representing W. C. McQuaide, Inc. here today.

15 With regard to your typical truck shipments to your
16 distributors throughout the State of Pennsylvania, who
17 typically pays the freight on those hauls?

18 A They are prepaid by IVEX.

19 Q Okay. The Hazelton facility that you referred
20 to --

21 A Yes.

22 Q -- is that an IVEX facility, or is that a under a
23 separate corporation?

24 A That is under a separate. That would be under KAMA
25 K-A-M-A, KAMA Corporation, basically owned by the same; more

1 or less a sister-type operation.

2 Q But nevertheless, it is a --

3 A Yes, operated --

4 Q -- separate corporation?

5 A Operated under a separate name, but incorporated
6 under IVEX, I guess it would be.

7 Q Now, if product left KAMA Corporation in Hazelton,
8 destined to your facility in and around Grove City, who
9 would pay the freight on that?

10 A Inbound collect. We would.

11 Q Okay. And if you had shipments of scrap plastic
12 from the Grove City area to Hazelton, KAMA Corporation, who
13 would pay the freight on that?

14 A They would.

15 Q KAMA would?

16 A Yes. KAMA would pay the freight on that.

17 Q You mentioned various destination points,
18 Philadelphia, Reading, Scranton, York, Scranton, et cetera,
19 et cetera.

20 Are those all from your Grove City facility?

21 A Yes.

22 Q Okay. What existing carriers do you now use
23 intrastate?

24 A Intrastate? I use our own fleet, IVEX trucking
25 fleet.

1 I use Milk Transport.

2 MR. PILLAR: I'm sorry. Milk?

3 THE WITNESS: Milk Transport. They also go by MTI,
4 their tanker van and flatbed.

5 A I use Direct Transit and W. H. Johns. They are
6 mainly my intra -- intrastate Pennsylvania carriers.

7 On some occasions, I do use Gardenscape, because they
8 hold the authority.

9 They can haul for me. That is about it right now.

10 Q Are you aware that there are other carriers out
11 there who are currently authorized by this Commission?

12 A I am sure there probable are, yes.

13 Q Would you have objections to using other carriers
14 who are currently authorized?

15 A I have no objections to any use of carriers. I
16 usually sit down and meet with a salesman, and we have -- we
17 go over his authority, we go over his insurance, and we go
18 over his rates, rate per mile.

19 Q Okay. Could you name some intrastate locations
20 which you ship to, for which you have used Klapiec?

21 A I have not used him intra. I have used him inter.
22 I have used him to Virginia, and I have used him to
23 Connecticut.

24 Q Is your authority for this application based upon
25 your truck load shipment needs?

1 A Yes.

2 Q And by that, I mean as opposed to a twenty pound
3 box up in Erie that needs picked up or delivered to.

4 A Oh, no, no. It would be based on my truck load
5 shipment needs.

6 That is exactly what it would be for.

7 Q Thank you, Miss Lyons. I have no further
8 questions.

9 JUDGE CORBETT: Anything further, Mr. Pillar?

10 REDIRECT EXAMINATION

11 BY MR. PILLAR:

12 Q Just one question, Mary Jane. The Hazelton
13 facility, that is, KAMA, is that a division of IVEX?

14 A Yes, yes.

15 Q It is a subsidiary, or do you know if it is a
16 separate corporation, or whether it is just a fictitious
17 name used by IVEX?

18 A I believe it is just another name used by IVEX,
19 owned by IVEX, but just using the name KAMA.

20 I'm not sure. The "K-A-M-A," they stand for
21 something, as well as I-V-E-X stands for something, too.

22 I don't know whether it is some type of -- you know,
23 most of them operate under the IVEX name.

24 I am not quite sure why they chose "KAMA."

25 MR. PILLAR: Thanks. That is all.

1 JUDGE CORBETT: You are excused.

2 (Witness excused.)

3 MR. PILLAR: Your Honor, as I indicated previously, as
4 far as Mr. Simmons being in Florida, he is not available
5 today.

6 I really hoped that we would be able to finish today,
7 but unfortunately, that is not the case.

8 Mr. Simmons will be my witness, as I understand it,
9 from his -- my conversations with him.

10 I may also have a witness from Raytrans.

11 I think I gave this information to counsel previously,
12 that there was a Paul Sever from Raytrans who was going to
13 testify, in addition to Mr. Simmons.

14 Mr. Sever apparently has left Raytrans in the course
15 of this case.

16 Mr. Ray, himself, I spoke to, and I believe he will be
17 here to testify as to any aspect of the shipping that he may
18 have first-hand knowledge of, but I understand Mr. Simmons
19 will be the principal witness --

20 JUDGE CORBETT: All right.

21 MR. PILLAR: -- and I would expect Mr. Simmons'
22 testimony to take about the same time, in terms of direct
23 examination, as Miss Lyons, and that took about half an
24 hour, so I think we could probably finish in a day, and I
25 understand Rex's position.

1 I certainly don't have anything to hide here, that we
2 are going to, in terms of what Mr. Simmons can testify to,
3 but if there is anything that would come up, that will be,
4 as far as McQuaide is concerned, I mean, I think that Mr.
5 Simmons is going to testify that they use McQuaide.

6 I don't think there is going to be anything startling
7 in terms of revelations that Mr. McQuaide wouldn't know
8 about, that would require a further continuance, but I
9 understand we will have to wait and see.

10 JUDGE CORBETT: Okay.

11 MR. PILLAR: I don't know of anything.

12 JUDGE CORBETT: All right.

13 MR. McQUAIDE: My preference, Judge, would be to
14 complete this all in the same day, by putting the
15 protestant's case on immediately following their supporting
16 shippers --

17 JUDGE CORBETT: Okay.

18 MR. McQUAIDE: -- but I would like to reserve the
19 opportunity.

20 MR. PILLAR: I understand.

21 MR. McQUAIDE: All right. I think that would be the
22 preferred way of doing it.

23 If something does come up, we can get a further date,
24 but I would like to move this case on to some type of
25 disposition, without unduly prolonging it, so all right, and

1 you will contact Harrisburg?

2 JUDGE CORBETT: I will contact Bud Huntingdon in
3 Harrisburg and let him know we will need an additional day.

4 Mr. McQuaide, you don't -- taking into consideration
5 the length the testimony this morning, do you think you
6 would need more than a day?

7 MR. McQUAIDE: Oh, no, sir. My witness will take a
8 maximum of half an hour.

9 JUDGE CORBETT: Okay. All right. Then I will set
10 aside an additional day and contact Bud Huntingdon.

11 He has your schedules, and we will set it up as
12 soon as he can.

13 MR. PILLAR: Thank you.

14 MR. McQUAIDE: Thank you.

15

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16 (Whereupon, at 11:45 o'clock AM, the
17 hearing was adjourned sine die.)

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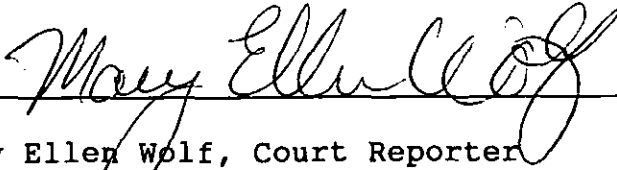
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1
2 I hereby certify that the proceedings and evidence are
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